

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,)	
)	No. CR-19-00956-SMB
Plaintiff,)	
)	
vs.)	Phoenix, Arizona
)	November 18, 2020
Miles Spencer Coyote,)	
)	
Defendant.)	
)	

BEFORE: THE HONORABLE SUSAN M. BRNOVICH, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SENTENCING

APPEARANCES:

For the Plaintiff:

U.S. ATTORNEY'S OFFICE

By: **Ms. Christina J. Reid-Moore, Esq.**

2 Renaissance Square

40 North Central Avenue, Suite 1800

Phoenix, AZ 85004

For the Defendant:

FEDERAL PUBLIC DEFENDERS OFFICE

By: **Mr. Gregory A. Bartolomei, Esq.**

850 West Adams Street, Suite 201

Phoenix, AZ 85007

Official Court Reporter:

Christine M. Coaly, RMR, CRR

Sandra Day O'Connor U.S. Courthouse, Suite 312

401 West Washington Street, Spc 37

Phoenix, Arizona 85003-2151

(602) 322-7248

Proceedings Reported by Stenographic Court Reporter

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P R O C E E D I N G S

COURTROOM DEPUTY: On the record in CR 19-956, United States of America versus Miles Spencer Coyote, before the Court for sentencing.

MS. REID-MOORE: Good afternoon, Your Honor. Christina Reid-Moore on behalf of the government.

MR. BARTOLOMEI: Good afternoon, Your Honor. Gregory Bartolomei appearing on behalf and with Miles Spencer Coyote, appearing from CoreCivic by video, a circumstance which he consents to in order to proceed today.

THE COURT: Thank you.

Sir, would you state your full name and date of birth.

THE DEFENDANT: Miles Spencer Coyote, April 15th, 1994.

THE COURT: All right. We are set for sentencing.

You pled guilty before a magistrate judge and that plea was accepted.

Therefore, it is now the judgment of the Court that you are guilty of the crime of Transfer of Obscene Material to a Minor, in violation of Title 18, United States Code, Section 1470. That's a class C felony.

I have read and considered the written presentence report.

Have both counsel reviewed the presentence report?

MS. REID-MOORE: I have, Your Honor.

1 MR. BARTOLOMEI: Yes, Your Honor.

2 THE COURT: And, Mr. Coyote, did your attorney go over
3 the presentence report with you?

4 THE DEFENDANT: Yes.

5 THE COURT: And did he give you an opportunity to ask
6 questions if you had any?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you feel like you understand the
9 report?

10 THE DEFENDANT: Yes, I do.

11 THE COURT: All right. And, for the record, there
12 were some objections -- or I think one objection to the
13 presentence report, which I understand is resolved, correct?

14 MR. BARTOLOMEI: Yes, Your Honor.

15 THE COURT: Okay. So the Court accepts the plea
16 agreement and the judgment and sentence will be consist with
17 it.

18 I am satisfied the plea agreement adequately reflects
19 the seriousness of the actual offense behavior, and that
20 accepting the agreement will not undermine the statutory
21 purposes of sentencing or the sentencing guidelines.

22 Sir, in your case, the guidelines were calculated as
23 follows:

24 The Court finds the applicable offense level is 14.
25 Your Criminal History Category is I.

1 So the ranges for sentence are as follows:
2 15 to 21 months incarceration; 1 to 3 years of
3 supervised release; a fine between \$7,500 and \$75,000.
4 Probation is not available. And there is a mandatory \$100
5 special assessment.

6 Are there any objections to the guideline
7 calculations?

8 MS. REID-MOORE: No, Your Honor.

9 MR. BARTOLOMEI: No, Your Honor.

10 THE COURT: All right. In addition to the presentence
11 report, I have read the letter from Reverend Ray Stillings, the
12 letter from Adriana De La Cruz (phonetic), and five
13 certificates of completion from CoreCivic, the defendant's
14 sentencing memoranda, and the government's sentencing
15 memoranda.

16 Counsel, anything you would like to say now on behalf
17 of your client?

18 MR. BARTOLOMEI: Yes, Your Honor.

19 We, of course, rely upon the sentencing memorandum
20 completely. We don't want this Court to give up on Mr. Coyote.
21 I don't know what more he could have done during the time he's
22 been at CoreCivic in order to show the Court the extent of his
23 remorse. He has been forthright in addressing issues with the
24 counselors there and dealing with the programs he's been going
25 through. They are limited, unfortunately, but he's taken

1 whatever he could to show that he's serious about wanting to
2 change his lifestyle.

3 He understands that at his age he can't be playing
4 those kinds of games. And social media can be very tempting
5 and fool -- and a lot of foolishness goes on, but he's beyond
6 that. He's a father. He's got responsibilities, and that's
7 been made very clear to him, and I think he gets it, because
8 he's had a lot of time sitting in CoreCivic in a very
9 segregated wing having to think about his personal
10 circumstances.

11 And he understands he has responsibilities to that
12 child. He also has responsibilities to the mother who is ill.
13 She has a tumor. And he must meet those responsibilities.
14 He's got no choice. He brought that child into the world.
15 He's got a responsibility to take care of the child.

16 Judge, another factor that isn't always considered or
17 given as much weight as it should be, in my opinion, is the
18 fact that he's wearing the yellow outfit there. He's in a
19 segregated wing of CoreCivic. That's for his own safety. And
20 he has to live, and has been living every day, with fear,
21 because he's kept away from the rest of the population because
22 of the nature of the charges. And that kind of highlights the
23 seriousness of what you've done and how you need to change.
24 That's an educational factor. It's a point that's been brought
25 home to him.

1 He doesn't want to be there anymore. He doesn't want
2 to be in these circumstances. He wants to move on. So that's
3 why we're saying, Your Honor, we don't want you to lose hope.

4 He understands he's got an alcohol problem. And we
5 think the Court can fashion its sentence that will enable a
6 probation officer to work with him in order to put him and keep
7 him on the right path. And the foolishness that goes on on the
8 rez, you know, the playing tag with the police, that's over.
9 He's too old. It's foolish to begin with. He can't do it
10 anymore. He needs structure. And we think that the guidance
11 that a probation officer can provide is exactly the kind of
12 structure he needs.

13 So we're asking the Court to impose the minimal
14 sentence that Your Honor thinks is appropriate under the
15 3553(a) factors, taking into account the seriousness and
16 documented history of alcohol substance abuse, which he has.
17 And I think he will be productive and we don't want you to give
18 up hope.

19 THE COURT: Okay. Thank you.

20 And I wanted to clarify something. I had a question
21 mark, because his conviction in state court was after this, the
22 time period of these, at least from what I understand. The
23 Facebook communications were from sometime in February to late
24 March of 2019 after he had been arrested for the attempted
25 unlawful flight and possession of marijuana for sale, but

1 before he was sentenced in that case.

2 Was he on release? Does anybody know?

3 MR. BARTOLOMEI: I honestly don't know, Judge.

4 MS. REID-MOORE: I don't know the answer to that
5 question, Your Honor. I'm sorry.

6 THE COURT: It's just a very short time frame, so I
7 suppose it's possible he wasn't, but I just -- I was just
8 wondering.

9 Because initially I had thought he was on probation,
10 but then I went back and looked and he was not sentenced at the
11 time frame of this offense, so. Okay.

12 Well, Mr. Coyote, anything you'd like to say before I
13 sentence you?

14 THE DEFENDANT: Yes. I understand that I made a
15 mistake. And, like my attorney says, I do apologize and I have
16 remorse for my actions to the -- not only who I am, but I am a
17 father. And I'm a good father. I take care of her. And I can
18 do probation. I can complete it.

19 I'm already on probation with the state. And I have
20 gone through these allegations before I was sentenced by the
21 state. And I kept going to court, and that was the only way
22 the federal government would file a warrant. And I showed and
23 I took responsibility and now I'm here. And every day I've
24 been in paying with my time, taking of my own actions.

25 And I most likely hurt my own family, my daughter,

1 and, of course, the victim that I should have never contacted
2 or been in contact with. And it was a mistake that I made.

3 And as far as the alcohol, I have been sober from
4 alcohol for five years. And I had just relapsed last year in
5 April and it went down from there.

6 And the psycho evaluation was a strange thing to go
7 through, because they filled up my head with images and tell me
8 how to think about it, and I did the best that I could.

9 And as far as me being in denial, I understand that
10 what I go through is serious, and to other people it's a
11 stronger impression. And I'm willing to grow up and stop --
12 stop doing what I'm doing, because I was 24 years old when I
13 committed the offense in February, almost two years ago. And
14 now I'm 26. And I'm ready to go home to be a father, with the
15 Court's blessing. And each packet that it's worth, including
16 my next couple of years, I'm still going to change. And I'm
17 going to be there for what I need to be there for.

18 But I do apologize to the government and the victim
19 and my own family. And that's all.

20 THE COURT: Okay. Thank you.

21 Ms. Reid-Moore.

22 MS. REID-MOORE: Well, Your Honor, I don't want to
23 repeat myself, so I'll just incorporate all of the information
24 that I provided during the sealed portion of today's
25 proceedings.

1 The sentence that we're recommending of 60 months is a
2 just sentence under all the factors that I've talked about.

3 Also, with respect to deterrence, as the Court knows,
4 we're not just trying to deter him from putting the public at
5 risk, which he clearly is a risk to the public, based on that
6 very extensive psychosexual evaluation, but the sentence in
7 this case will hopefully also deter the general public from
8 doing these types of things.

9 The Court does not have available to it, because there
10 were so many, all of the communications between Facebook --
11 between the victim and him and Facebook, and there were many,
12 and they were just as vulgar as the ones that you've seen.
13 There were just so many things that were going on there.

14 She's 14. She might have said in her forensic
15 interview that this was stupid, but as is common in sex-type
16 cases, or sex abuse cases, victims either disclose, or they do
17 not disclose ever, or they delay disclosure, for a number of
18 their own reasons that they're going through. So we don't know
19 what the impact is on this victim in the case, but we want the
20 Court to recognize that she is a victim, and that needs to be
21 remembered here.

22 So a sentence of 60 months will provide just
23 punishment to this defendant. Hopefully he will take his
24 alcohol abuse issues seriously, because until today he hasn't
25 really made statements that have supported that he believes he

1 even has a problem. And if he doesn't tackle that problem,
2 he'll be before you again for supervised release violations.

3 And then, finally, with respect to his supervised
4 release, we are hopeful that they'll be some counseling and
5 treatment that he will take seriously, not just alcohol
6 treatment, but also psychosexual evaluations that show that he
7 needs sex-offender type treatment so that he doesn't re-offend.
8 That's really important. But he has to accept what he's done
9 and take it seriously.

10 So for all the reasons set forth in my motion for a
11 variance, all the reasons that I stated during the sealed
12 portion of the proceedings today, and what I've just stated
13 now, Your Honor, we are seeking 60 months, followed by three
14 years of supervised release.

15 Thank you.

16 THE COURT: Okay.

17 PROBATION OFFICER: Your Honor, this is Tey'a Warner
18 with probation.

19 THE COURT: Yes.

20 PROBATION OFFICER: May I add something really
21 quickly? I'm sorry.

22 THE COURT: Sure.

23 PROBATION OFFICER: I did not prepare this report, but
24 as I'm looking through the report, I am noticing that it
25 appears that his plan to release is to a home that has minor

1 children. And we are asking that he not have contact with
2 minor children.

3 So unless there is another plan in place for the
4 defendant, I would like to suggest that we add a reentry center
5 condition, special condition, so that he has housing upon his
6 release.

7 THE COURT: Well, actually, there was an objection to
8 the term that he not have contact with any minor children.
9 That objection was resolved prior to today, and the new
10 recommendation excludes his own children and children with whom
11 you have a familial relationship, without prior written
12 authorization by the probation officer.

13 PROBATION OFFICER: Okay. I apologize.

14 THE COURT: That's okay.

15 I guess if the housing situation changes before he's
16 released, the probation office will have to come back and ask
17 for that term if there is no place for him to go, but I think
18 it's anticipated that he will be able to go to his home.

19 All right. In addition to what I already stated, I
20 want to include in that calculation the harm to the victim. I
21 don't think I talked about that. Obviously, this is a 14-year-
22 old girl who, you know, once that stuff gets out there that was
23 solicited by the defendant, it's hard to get rid of, so there
24 is potential harm in that, and just potential harm, that I
25 anticipate, as she gets older, will become more vivid in her

1 self-awareness or self-respect and may give her problems with
2 future relationships. But, at a minimum, it gives her pause to
3 trust adults.

4 And, Mr. Coyote, to be clear, I'm not giving up hope
5 on you, that's not really what I do, but I do think it's
6 important to send a strong message to you about how serious
7 this is, and the guidelines recommendation does not reflect the
8 seriousness of this offense and the state that you're in right
9 now and when this offense was committed.

10 I think that, while on supervised release, they can
11 help minimize that risk, assuming that you mean what you say
12 and that you want to get better, but it does -- well, there is
13 just no basis for any leniency in this case. And had someone
14 who had contact with you earlier imposed some -- or offered you
15 some help at some point, then maybe we wouldn't be here.

16 So, pursuant to the Sentencing Reform Act of 1984, it
17 is the judgment of the Court that Miles Spencer Coyote is
18 hereby committed to the Bureau of Prisons for 42 months.

19 Defendant shall pay a special assessment of \$100,
20 which shall be due immediately.

21 The Court finds defendant does not have the ability to
22 pay and orders the fine waived.

23 Defendant shall pay a total of \$100 in criminal
24 monetary penalties. While incarcerated, payment of the
25 criminal monetary penalty is due at a rate of not less than \$25

1 per quarter, and payments shall be made through the Bureau of
2 Prisons Inmate Financial Responsibility Program.

3 The Court hereby waives the imposition of interest and
4 penalties on any unpaid balance.

5 Upon release from imprisonment, you will be placed on
6 supervised release for a period of 36 months.

7 While on supervised release, you must comply with the
8 mandatory and standard conditions of supervision as adopted by
9 this Court in General Order 17-18.

10 Within 72 hours of your release from custody of the
11 Bureau of Prisons, you must report in person to the probation
12 office in the district to which you are released.

13 And you must comply with the following special
14 conditions:

15 You must cooperate in the collection of DNA as
16 directed by the probation officer.

17 You must attend and participate in a sex offender
18 treatment program and sex-offense specific evaluations as
19 approved by the probation officer.

20 You must abide by the policies and procedures of all
21 the treatment and evaluation providers.

22 You must contribute to the cost of such treatment and
23 assessment in an amount not to exceed an amount determined to
24 be reasonable by the probation officer based on ability to pay.

25 To you must attend and participate in periodic

1 polygraph examinations as a means to determine compliance with
2 conditions of supervision and their requirements of your
3 therapeutic program, as directed by the probation officer.

4 No violation proceeding will arise solely as a result
5 of a polygraph test. A valid Fifth Amendment refusal to answer
6 a question during a polygraph examination will not be used as a
7 basis for a violation proceeding.

8 You must contribute to the cost of such polygraph
9 examination not to exceed an amount determined to be reasonable
10 by the probation officer based on ability to pay.

11 You must register as a sex offender in compliance with
12 all federal, state, tribal, or other local laws, or as ordered
13 by the court. Failure to comply with registration laws may
14 result in new criminal charges.

15 You must not directly or indirectly contact any victim
16 or the victim's family of the instant offense without prior
17 written permission. This also includes victims disclosed in
18 treatment, assessment, and/or any other victim identified by
19 the probation officer.

20 Indirect contact includes, but is not limited to,
21 letters, communication devices, audio or visual devices,
22 communication through a third party, and/or your presence at
23 any location the victim may be known to frequent. You must
24 immediately report any contact to the probation officer.

25 You must not be in the company of or have contact with

1 children who you know are under the age of 18, excluding your
2 own children and children with whom you have a familial
3 relationship, without prior written authorization by the
4 probation officer.

5 Contact includes, but is not limited to, letters,
6 communication devices, audio or visual devices, visits, or
7 communication through a third party.

8 You must not utilize by any means any social
9 networking forums offering an interactive user submitted
10 network of friends, personal profiles, blogs, chat rooms, or
11 other environment which allow for interaction with others,
12 without prior written permission from the probation officer.

13 You must consent, at the direction of the probation
14 officer, to having installed on your computer, as defined in
15 Title 18, United States Code, Section 1030(e)(1), including
16 internet capable devices, and, at your own expense, any
17 hardware or software systems to monitor your computer usage.

18 You must submit your computers or other electronic
19 communications or data storage devices or media to a search.
20 You must warn other people who use these computers or devices
21 capable of accessing the internet that the devices may be
22 subject to search pursuant to this condition. Failure to
23 submit to a search may be grounds for revocation of release.

24 A probation officer may conduct a search pursuant to
25 this condition only when reasonable suspicion exists that there

1 is a violation of a condition of supervision, and that the
2 computer or device contains evidence of this violation.

3 You must consent to and cooperate with the seizure and
4 removal of any hardware and/or data storage media for further
5 analysis by law enforcement or the probation officer with
6 reasonable suspicion concerning a violation of a condition of
7 supervision or unlawful conduct. Any search will be conducted
8 at a reasonable time and in a reasonable manner.

9 You must submit your person, property, house,
10 residence, vehicle, papers, or office to a search conducted by
11 a probation officer. Failure to submit to a search may be
12 grounds for revocation of release.

13 You must warn any other occupants that the premises
14 may be subject to search pursuant to this condition.

15 You must participate in a mental health assessment and
16 participate in mental health treatment as determined to be
17 necessary by a medical or mental health professional, and
18 follow any treatment directions by a treatment provider.

19 You must take medicine as prescribed by a medical
20 professional providing mental health treatment unless you
21 object, in which event, you must immediately notify the
22 probation officer. You must contribute to the cost of
23 treatment in an amount to be determined by a probation officer.

24 You must participate, as instructed by the probation
25 officer, in a program of substance abuse treatment, outpatient

1 and/or inpatient, which may include testing for substance
2 abuse. You must contribute to the cost of treatment in an
3 amount to be determined by the probation officer.

4 You must not use or possess alcohol or alcoholic
5 beverages.

6 And the Court will include a recommendation that the
7 defendant be placed in Arizona, or near Arizona, to accommodate
8 family visits.

9 Mr. Coyote, do you understand your sentence?

10 THE DEFENDANT: Yes.

11 THE COURT: The Court finds that this sentence is
12 sufficient, but not greater than necessary, to comply with the
13 purposes set forth in Title 18, United States Code, Section
14 3553(a), that it is a reasonable sentence under the statute,
15 given the nature and circumstances of the offense, the history
16 and characteristics of the defendant, the need to reflect the
17 seriousness of the offense and afford adequate deterrence.

18 The Court adopts the facts as set forth in the
19 presentence report in support of the guideline calculations and
20 the reasons for the sentence.

21 Counsel, have I sentenced defendant in accordance with
22 the terms of the plea agreement?

23 MS. REID-MOORE: You have, Your Honor.

24 MR. BARTOLOMEI: Yes, Your Honor.

25 THE COURT: Sir, I find I have sentenced you in

1 accordance with the terms of your plea agreement, so that means
2 you've waived your right to appeal.

3 However, I do need to advise you that if you wish to
4 appeal, you have to do that within 14 days of today's date or
5 you lose that right.

6 If you wish to file an appeal and can't afford an
7 attorney, one would be provided to you at no cost.

8 And is there something to be dismissed?

9 MS. REID-MOORE: There is, Your Honor. At this time,
10 the government moves to dismiss the indictment in this case.

11 THE COURT: On motion of the government, the
12 indictment will be dismissed.

13 MS. REID-MOORE: Thank you.

14 THE COURT: Is there anything else, counsel?

15 MS. REID-MOORE: Nothing further.

16 MR. BARTOLOMEI: Nothing further, Judge.

17 THE COURT: Okay. Thank you. We're at recess.

18 MR. BARTOLOMEI: Thank you.

19 * * *

C E R T I F I C A T E

I, CHRISTINE M. COALY, do hereby certify that I am
duly appointed and qualified to act as Official Court Reporter
for the United States District Court for the District of
Arizona.

I FURTHER CERTIFY that the foregoing pages constitute
a full, true, and accurate transcript of all of that portion of
the proceedings contained herein, had in the above-entitled
cause on the date specified therein, and that said transcript
was prepared under my direction and control.

DATED at Phoenix, Arizona, this 23rd day of
September, 2022.

/s/ Christine M. Coaly
Christine M. Coaly, RMR, CRR